



June 20, 2000

Mr. Thomas F. Keever  
Assistant District Attorney  
Criminal District Attorney's Office  
County of Denton  
P.O. Box 2850  
Denton, Texas 76202

OR2000-2345

Dear Mr. Keever:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 136742.

The Honorable Kirk Wilson, County Judge of Denton County, received a request for permission to inspect information received or generated by his office on April 10, 2000, relating to a list of twenty-one categories of information. On behalf of Judge Wilson, you claim that the request is over-broad and does not sufficiently specify the documents and/or information sought. You additionally argue that a portion of the information is excepted from disclosure under Government Code section 552.131, as well as pursuant to section 552.101 of the Government Code in conjunction with section 312.003 of the Tax Code.<sup>1</sup> We assume you have released the remaining information. You have submitted responsive information for a portion of the requested information and have marked these documents as exhibits C, D, E, and F. We have considered the exceptions you claim and reviewed the submitted information.

First, we consider your argument that the request is overly broad. You state that the requestor has "submitted daily public information requests for the same information on all business days." You further express that you recognize that previous decisions of this office

---

<sup>1</sup>In your letter of April 26, 2000, you also asserted that a portion of the information is excepted from public disclosure by Government Code sections 552.102, 552.103, 552.104, 552.105, 552.107, 552.108, 552.109, 552.111, 552.113, 552.127, and 552.128. Because you have not explained or otherwise demonstrated how any of these other exceptions apply to the information at issue, we view those exceptions as being waived. See Gov't Code §§ 552.301(e)(1)(A), 552.302.

involving “previous identical” requests are controlling on this issue. You acknowledge that Open Records Letter No. 2000-0254 (2000) is controlling as to the questions you raise. Open Records Letter No. 2000-0254 concluded that the request, while encompassing numerous facets of county business, is sufficiently clear and understandable to inform the county judge of the records being requested. Therefore, the request is proper.

We first address your claimed exceptions to the submitted information. You argue that the documents contained in exhibits C, D, and E are excepted from public disclosure pursuant to subsection 552.131(b) because they consist of information relating to “financial and/or other information that is part of the overall economic incentive being offered to [a] business prospect by a government body and/or is [a] communication between the prospect and the government body to confirm facts critical to the prospect’s ultimate decision whether to establish its business in Denton County.” Subsection 552.131(b) provides that “[u]nless and until an agreement is made with the business prospect, information about a *financial or other incentive being offered* to the business prospect by the governmental body or by another person is excepted from [required public disclosure].” (Emphasis added). You explain that the documents are communications between a Denton County economic development coordinator and the representative of an economic prospect concerning a proposed development. After reviewing these three exhibits, we conclude that the information contained therein does not relate to an “incentive being offered.” We agree that the information contains facts pertinent to a proposed development and relevant to the prospect’s decision to establish itself in Denton county. However, you do not provide further documentation or sufficiently explain how the information involves “a financial or other incentive being offered.” You further contend that the disclosure of exhibits D and E could “lead to the premature identification of the prospect.” Section 552.131, however, does not protect the identities of economic prospects. Therefore, we conclude you must disclose exhibits C, D, and E to the requestor.

You also contend that exhibit F is excepted from public disclosure by section 552.131. You explain that this exhibit pertains to a communication to the members of the Denton County Commissioners’ Court and their counsel for developmental issues regarding a tax abatement for a business prospect. Because exhibit F involves a financial incentive, we agree that the information may be withheld under section 552.131. As section 552.131 is dispositive of exhibit F, we need not address your claims pursuant to Government Code section 552.101 and Tax Code section 312.003.

In summary, the information contained in exhibits C, D, and E must be disclosed to the requestor. Pursuant to section 552.131, you may withhold exhibit F.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Julie Reagan Watson  
Assistant Attorney General  
Open Records Division

JRW/pr

Ref: ID# 136742

Encl: Submitted documents

cc: Mr. Charles Siderius  
Denton Record-Chronicle  
P.O. Box 369  
Denton, Texas 76201  
(w/o enclosures)